

1 **SECTION 4.** Section 35X of chapter 10 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out, in lines 22 to 24, inclusive, the words
3 "and that total not more than 20 percent of the department's expenditures related to health
4 board licensing for the previous fiscal year"

1 **SECTION 5.** Said section 35X of said chapter 10 of the General Laws, as so appearing,
2 is hereby further amended by inserting at the end thereof the following subsection:-
3

4 (d) Notwithstanding any general or special law to the contrary, the total amount of any
5 new fee and any increase in the fee in effect after the fee increases authorized pursuant to
6 subsection (c) for obtaining or renewing a license, certificate, registration, permit or
7 authority issued by a board within the department of public health, excluding the board of
8 registration in medicine, adopted by the secretary of administration and finance,
9 following a public hearing, shall be deposited in the fund.

1 **SECTION 6.** Section 35CC of said chapter 10 of the General Laws, as so appearing, is
2 hereby amended by striking out, in line 12, the word "purposes." and inserting in place
3 thereof the following words:- purposes and for expenses related to the administration of
4 the fund; provided, however, that said administrative expenses shall not exceed \$75,000
5 annually.

1 **SECTION 7.** Section 12F of chapter 25 of the General Laws, as so appearing, is hereby
2 amended by inserting at the end thereof the following paragraph:-
3

4 The commission may make an assessment against each railroad corporation or
5 railway company under the jurisdictional control of the department, based upon the
6 intrastate operating revenues as shown in the annual report of each such company to the
7 department. Said assessments shall be made at a rate sufficient to collect a maximum of
8 \$500,000 annually, as shall be determined and certified annually by the commission as
9 sufficient to reimburse the commonwealth for funds appropriated by the general court for
10 costs incurred by the transportation division related to railroad bridge inspections
11 pursuant to section 83 of chapter 159, including administrative costs and for the cost of
12 fringe benefits as established by the commissioner of administration pursuant to section
13 5D of chapter 29, including group life and health insurance, retirement benefits, paid
14 vacations, holidays and sick leave. The funds may be used to compensate consultants in
15 hearings on petitions filed by companies subject to assessment under this section and for
16 consultants for the purpose of railroad bridge inspections. Each company shall pay the
17 amount assessed against it within 30 days after the date of the notice of assessment from
18 the department. Such assessments shall be collected by the department and credited to the
19 General Fund. Any funds unexpended in any fiscal year for the purposes for which such
20 assessments were made shall be credited against the assessment to be made in the

21 following fiscal year and the assessment in the following fiscal year shall be reduced by
22 any such unexpended amount.

1 **SECTION 8.** Section 15 of chapter 33 of the General Laws, as so appearing, is hereby
2 amended by striking out, in line 54, the word "five" and inserting in place thereof the
3 following:- 4

1 **SECTION 9.** Said section 15 of said chapter 33 of the General Laws, as so appearing, is
2 hereby further amended by inserting at the end thereof the following subsection:-
3

4 (l) There shall be a state liaison who shall be an advisor to the military division on all
5 policy matters involving the National Guard and who shall also perform such other duties
6 as may be prescribed by the adjutant general. Said liaison shall serve a term coterminous
7 with that of the adjutant general.

1 **SECTION 10.** Section 15 of chapter 60 of the General Laws, as so appearing, is hereby
2 amended by striking out, in line 5, the words "five dollars" and inserting in place thereof
3 the following words:- not more than \$30;

1 **SECTION 11.** Chapter 62B of the General Laws is hereby amended by inserting after
2 section 13 the following section:-
3

4 Section 13A. The commissioner may require a taxpayer, or a person paying,
5 crediting or allocating an amount to a taxpayer, to make estimated tax payments on
6 amounts the taxpayer is reasonably likely to receive. The commissioner may require a
7 minimum estimated tax payment and may require payment on or before the date of
8 receipt of income. The commissioner may, for example, exercise this authority to require
9 a nonresident taxpayer to estimate and pay, on or before the time of sale, the income tax
10 liability on the gain from the sale or transfer of real property in the commonwealth. The
11 commissioner may issue regulations governing the administration of this section. In the
12 event of a sale, transfer or disposition of property, a lien in the amount of any required
13 estimated payment shall arise with regard to the property, to the extent provided by
14 regulation, if such a required estimated tax payment is not timely made.

1 **SECTION 12.** Section 16 of chapter 62C of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting after subsection (c) the following
3 subsection:-
4

5 (c^{1/2}) Every licensee under section 7B of chapter 64C shall, on or before the
6 twentieth day of each calendar month, or on or before the twentieth day of the month
7 following each calendar quarter, as the commissioner shall require, file with the
8 commissioner a return for each place of business maintained, stating the quantity of
9 cigars and smoking tobacco sold by such licensee in the commonwealth during the
10 preceding calendar month or quarter, as the case may be, and such return shall contain or
11 be accompanied by such further information as the commissioner shall require. If a
12 licensee ceases to sell cigars and smoking tobacco within the commonwealth he shall

13 immediately file with the commissioner such a return for the period ending with such
14 cessation.

1 **SECTION 13.** Section 33 of said chapter 62C of the General Laws, as so appearing, is
2 hereby amended by striking out, in line 11 and line 19, the words "one-half of"

1 **SECTION 14.** Section 47A of said chapter 62C of the General Laws, as so appearing, is
2 hereby amended by striking out subsection (d) and inserting in place thereof the
3 following 2 subsections:-
4

5 (d) If the commissioner determines from the information furnished pursuant to
6 subsections (a), (b) and (c), or otherwise, that any person who holds a license or
7 certificate of authority issued by any such agency or who has agreed to furnish goods,
8 services or real estate space to any such agency has neglected or refused to file any
9 returns or to pay any tax required under this chapter and that such person has not filed in
10 good faith a pending application for abatement of such tax or a pending petition before
11 the appellate tax board contesting such tax or entered a payment agreement with which
12 the taxpayer is fully compliant, or has been penalized pursuant to section 9 of chapter
13 62E for failure to comply with the provisions of said chapter 62E relating to reporting of
14 employees and contractors, or has been penalized pursuant to paragraph (3) of subsection
15 (f) of section 12 of chapter 119A for failure to comply with the provisions of said chapter
16 119A relating to withholding and remitting child support, the commissioner shall so
17 notify such agency and such person in writing. Upon the written request of the
18 commissioner, the agency, department, board, commission, division, authority, district or
19 other agency of the commonwealth, shall promptly revoke or suspend that license or
20 certificate of authority. Any license or certificate of authority suspended or revoked under
21 this section shall not be reissued or renewed until the agency receives a certificate issued
22 by the commissioner that the licensee is in good standing with respect to all returns due
23 and taxes payable to the commissioner as of the date of issuance of the certificate,
24 including all taxes and returns referenced in the initial notification or, if the licensee has
25 been penalized for failure to comply with the provisions relating to reporting of
26 employees and contractors under chapter 62E or withholding and remitting child support
27 under chapter 119A, a certificate issued by the commissioner that the licensee is in
28 compliance with those provisions.
29

30 (e) Where a license revocation, suspension or non-renewal is based upon
31 nonpayment of an assessed tax administered under this chapter, the licensee's sole right
32 of appeal and to a hearing shall be pursuant to and within the time limitations of this
33 chapter and not pursuant to chapter 30A. The commissioner shall give the licensee not
34 less than 30 days notice of any proposed action, during which the licensee may enter into
35 a payment agreement with the commissioner under mutually agreeable terms or may file
36 a good faith abatement application within the time periods determined under section 37.
37 Such an abatement application shall stay a proposed license revocation, suspension, or
38 non-renewal until the amount of disputed tax due is finally determined. A licensee who is
39 beyond the time limitations in section 37 but who disputes that he is liable for the
40 assessment and is unable to resolve that issue with the commissioner during the 30-day

41 period may appeal the proposed revocation, suspension or non-renewal by filing a civil
42 action under section 14 of chapter 30A. The scope of this appeal shall be limited to
43 assertions of mistake or verification of payments made and shall not include
44 determination or redetermination of the proper amount of tax assessed or any other issues
45 appropriately raised through a timely filed abatement under section 37. Any stay of the
46 proposed revocation, suspension or non-renewal pending resolution of this appeal shall
47 be within the discretion of the court.

1 **SECTION 15.** Said chapter 62C of the General Laws is hereby further amended by
2 inserting after said section 47A the following section:-
3

4 Section 47B. (a) If the commissioner determines that any person who holds a
5 driver's license, learner's permit, right to operate a motor vehicle or certificate of motor
6 vehicle registration has neglected or refused to file any returns or to pay any tax required
7 under this chapter and that the person has not filed in good faith a pending application for
8 abatement of such tax or a pending petition before the appellate tax board contesting such
9 tax or entered a payment agreement with which the taxpayer is fully compliant, the
10 commissioner shall so notify the registry of motor vehicles and the person in writing.
11 Upon the written request of the commissioner, the registry shall promptly suspend or
12 revoke or prohibit issuance or renewal of the license, learner's permit, right to operate a
13 motor vehicle, or certificate of motor vehicle registration of the taxpayer. Any license,
14 learner's permit, right to operate a motor vehicle or certificate of motor vehicle
15 registration suspended or revoked under this section shall not be reissued or renewed
16 until the registry receives a certificate issued by the commissioner that the licensee is in
17 good standing with respect to any and all returns due and taxes payable to the
18 commissioner as of the date of issuance of the certificate, including all taxes and returns
19 referenced in the initial notification.
20

21 (b) Where a license revocation, suspension or non-renewal is based upon
22 nonpayment of an assessed tax administered under this chapter, the licensee's sole right
23 of appeal and to a hearing shall be pursuant to and within the time limitations of this
24 chapter and not pursuant to chapter 30A. The commissioner shall give the licensee not
25 less than 30 days notice of any proposed action, during which the licensee may enter into
26 a payment agreement with the commissioner under mutually agreeable terms or may file
27 a good faith abatement application within the time periods determined under section 37.
28 Such an abatement application shall stay a proposed license revocation, suspension, or
29 non-renewal until the amount of disputed tax due is finally determined. A licensee who is
30 beyond the time limitations in section 37 but who disputes that he is liable for the
31 assessment and is unable to resolve that issue with the commissioner during the 30-day
32 period may appeal the proposed revocation, suspension or non-renewal by filing a civil
33 action as provided in section 14 of chapter 30A. The scope of this appeal shall be limited
34 to assertions of mistake or verification of payments made and shall not include
35 determination or redetermination of the proper amount of tax assessed or any other issues
36 appropriately raised through a timely filed abatement under section 37. Any stay of the
37 proposed revocation, suspension or non-renewal pending resolution of this appeal shall
38 be within the discretion of the court.

1 **SECTION 16.** Section 49A of said chapter 62C of the General Laws, as appearing in the
2 2006 Official Edition, is hereby amended by inserting at the end thereof the following
3 subsection:-
4

5 (f) Where a license revocation, suspension or non-renewal is based upon
6 nonpayment of an assessed tax administered under this chapter, the licensee's sole right
7 of appeal and to a hearing shall be pursuant to and within the time limitations of this
8 chapter and not pursuant to chapter 30A. The commissioner shall give the licensee not
9 less than 30 days notice of any proposed action, during which the licensee may enter into
10 a payment agreement with the commissioner under mutually agreeable terms or may file
11 a good faith abatement application within the time periods determined under section 37.
12 Such an abatement application shall stay a proposed license revocation, suspension or
13 non-renewal until the amount of disputed tax due is finally determined. A licensee who is
14 beyond the time limitations in section 37 but who disputes that he is liable for the
15 assessment and is unable to resolve that issue with the commissioner during the 30-day
16 period may appeal the proposed revocation, suspension or non-renewal by filing a civil
17 action as provided in section 14 of chapter 30A. The scope of this appeal shall be limited
18 to assertions of mistake or verification of payments made and shall not include
19 determination or redetermination of the proper amount of tax assessed or any other issues
20 appropriately raised through a timely filed abatement under section 37. Any stay of the
21 proposed revocation, suspension, or non-renewal pending resolution of this appeal shall
22 be within the discretion of the court.

1 **SECTION 17.** Section 50 of said chapter 62C of the General Laws, as so appearing, is
2 hereby amended by striking out, in line 22, the words "Notwithstanding section 65, the"
3 and inserting in place thereof the following word:- The

1 **SECTION 18.** Section 65 of said chapter 62C of the General Laws, as so appearing, is
2 hereby amended by striking out the first paragraph and inserting in its place the following
3 paragraph:-
4

5 Taxes shall be collected: (i) within 10 years after the assessment of the tax; (ii)
6 within any further period after that 10-year period during which the taxes remain unpaid
7 but only against any real or personal property of the taxpayer to which a tax lien has
8 attached and for which a notice of lien has been filed or recorded under section 50 in
9 favor of the commonwealth in accordance with applicable state or federal law within 10
10 years after the assessment of the tax; (iii) before the expiration of any period of collection
11 agreed upon in writing by the commissioner and the taxpayer before the expiration of that
12 10-year period; or (iv) if there is a release of levy under section 64 after that 10-year
13 period, then before that release. The period so agreed upon may be extended by
14 subsequent agreements in writing made before the expiration of the period previously
15 agreed upon. When any question relative to such taxes is pending before any agency or
16 court at the end of that 10-year period, the commissioner's right to collect any tax due
17 shall continue until 1 year after the final determination of that question.

1 **SECTION 19.** Section 67 of said chapter 62C of the General Laws, as so appearing, is
2 hereby amended by striking out, in line 7, the words “or retailer” and inserting in place
3 thereof the following words:- retailer, or cigar distributor or cigar retailer

1 **SECTION 20.** Said section 67 of said chapter 62C of the General Laws, as so appearing,
2 is hereby further amended by striking out, in line 21, the words “or retailer,” and inserting
3 in place thereof the following words:- retailer, cigar distributor or cigar retailer,

1 **SECTION 21.** Said section 67 of said chapter 62C of the General Laws, as so appearing,
2 is hereby further amended by striking out the third paragraph and inserting in place
3 thereof the following paragraph:-
4

5 All licenses, other than licenses for manufacturers, wholesalers, vending machine
6 operators, unclassified acquirers, transportation companies, retailers, cigar distributors
7 and cigar retailers, as defined in chapter 64C, shall expire annually on a date prescribed
8 by the commissioner. Licenses for manufacturers, wholesalers, vending machine
9 operators, unclassified acquirers, transportation companies and cigar distributors shall
10 expire annually on a date prescribed by the commissioner. Licenses for these retailers and
11 cigar retailers shall expire every other year, as prescribed by the commissioner. The
12 commissioner may provide for combined forms of licenses and license applications.

1 **SECTION 22.** Said section 67 of said chapter 62C of the General Laws, as so appearing,
2 is hereby further amended by striking out, in line 48, the words "and retailers" and
3 inserting in place thereof the following words:- , retailers, cigar distributors and cigar
4 retailers

1 **SECTION 23.** Said section 67 of said chapter 62C of the General Laws, as so appearing,
2 is hereby amended by striking out the seventh paragraph and inserting in place thereof the
3 following paragraph:-
4

5 The secretary of administration and finance shall annually determine the fees for licenses
6 and each renewal of a license under section 3B of chapter 7 in the following categories:
7 distributors; unclassified importers; unclassified exporters; manufacturers; wholesalers;
8 vending machine operators; unclassified acquirers; transportation companies; retailers;
9 cigar distributors; cigar retailers; user-sellers; suppliers; users of special fuels; and motor
10 carriers or their vehicles; except that in case of a manufacturer, wholesaler, cigar
11 distributor or vending machine operator who maintains more than one place of business
12 the fee for each additional place of business shall be one-half of the above determined
13 fee. No fee, nor part of any fee, shall be refunded by reason of relinquishment,
14 suspension or revocation of a license.

1 **SECTION 24.** Section 1 of chapter 62D of the General Laws, as so appearing, is hereby
2 amended by inserting after the word "assistance," in line 4, the following words:- the
3 executive office of health and human services,

1 **SECTION 25.** Said section 1 of said chapter 62D of the General Laws, as so appearing,
2 is hereby further amended by inserting after the word "debtor;", in line 17, the following
3 words:- an amount owed the executive office of health and human services by a debtor;

1 **SECTION 26.** Said section 1 of said chapter 62D of the General Laws, as so appearing,
2 is hereby further amended by striking out, in lines 57 to 61, inclusive, the words "for
3 costs incurred as a result of noncompliance by that individual with an order to provide
4 coverage for the cost of health services to a child eligible for assistance under Title XIX
5 of the Social Security Act, as further described in section 23 of chapter 118E;" and
6 inserting in place thereof the following words:- or the executive office of health and
7 human services;

1 **SECTION 27.** Chapter 63B of the General Laws is hereby amended by inserting after
2 section 2 the following section:-
3

4 Section 2A. The commissioner may require a taxpayer, or a person paying,
5 crediting or allocating an amount to a taxpayer, to make estimated tax payments on
6 amounts the taxpayer is reasonably likely to receive. The commissioner may require a
7 minimum estimated tax payment and may require payment on or before the date of
8 receipt of income. The commissioner may, for example, exercise this authority to require
9 a nonresident taxpayer to estimate and pay, on or before the time of sale, the tax liability
10 on the gain from the sale or transfer of real property in the commonwealth. The
11 commissioner may issue regulations governing the administration of this section. In the
12 event of a sale, transfer or disposition of property, a lien in the amount of any required
13 estimated payment shall arise with regard to the property, to the extent provided by
14 regulation, if such a required estimated tax payment is not timely made.

1 **SECTION 28.** Section 1 of chapter 64C of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting after the figure "(1)", in line 53, the
3 following words -: ; and (3) little cigars, which shall mean rolls of tobacco wrapped in
4 leaf tobacco or any substance containing tobacco and as to which 1,000 units weigh not
5 more than 3 pounds

1 **SECTION 29.** Said section 1 of said chapter 64C of the General Laws, as so appearing,
2 is hereby further amended by inserting after the word "meaning", in line 56, the following
3 words -: , without limitation, little cigars and

1 **SECTION 30.** Section 6 of said chapter 64C of the General Laws, as so appearing, is
2 hereby amended by striking out the last paragraph.

1 **SECTION 31.** Said chapter 64C of the General Laws is hereby further amended by
2 striking out section 7B and inserting in place thereof the following section:-
3

4 Section 7B. (a) As used in this section the following words shall, unless the context
5 clearly requires otherwise, have the following meanings:

6
7 "Cigar", without limitation, a cigar, cheroot or stogie; provided, however, that a
8 cigar shall not include cigarettes as defined pursuant to this chapter.
9

10 "Cigar distributor", (i) any person who imports, or causes to be imported, into the
11 commonwealth cigars or smoking tobacco for sale or who manufactures cigars or
12 smoking tobacco in the commonwealth, and (ii) any person within or without the
13 commonwealth who is authorized by the commissioner to make returns and pay the
14 excise on cigars and smoking tobacco sold, shipped or delivered by him to any person in
15 the commonwealth.
16

17 "Cigar retailer", any person who sells or furnishes cigars or smoking tobacco in
18 small quantities to consumers for individual use; provided, however, said cigars or
19 smoking tobacco shall not be used for the purpose of resale.
20

21 "Person", a natural person, corporation, association, partnership or other legal
22 entity.
23

24 "Smoking tobacco", roll-your-own tobacco and pipe tobacco and other kinds and
25 forms of tobacco suitable for smoking.
26

27 "Taxed cigars and smoking tobacco", cigars and smoking tobacco upon which the
28 excise has been paid in full by the date on which payment is due, and with respect to
29 which the return has been completed, signed and filed with the commissioner by the date
30 on which the return is due, in accordance with this section and with section 16 of chapter
31 62C.
32

33 "Untaxed cigars and smoking tobacco", cigars and smoking tobacco upon which
34 the excise has not been paid in full by the date on which payment is due, or with respect
35 to which the return has not been completed, signed and filed with the commissioner by
36 the date on which the return is due, in accordance with this section and with section 16 of
37 chapter 62C.
38

39 "Wholesale price", (i) in the case of a manufacturer of cigars and smoking tobacco,
40 the price set for such products or, if no price has been set, the wholesale value of these
41 products; (ii) in the case of a cigar distributor who is not a manufacturer of cigars or
42 smoking tobacco, the price at which the cigar distributor purchased these products; or (iii)
43 in the case of a cigar retailer or a consumer, the price at which he purchased these
44 products.
45

46 (b) An excise shall be imposed on all cigars and smoking tobacco held in the
47 commonwealth at the rate of 30 per cent of the wholesale price of such products. This
48 excise shall be imposed on cigar distributors at the time cigars or smoking tobacco are
49 manufactured, purchased, imported, received or acquired in the commonwealth. This
50 excise shall not be imposed on any cigars or tobacco products that (i) are exported from

51 the commonwealth; or (ii) are not subject to taxation by the commonwealth pursuant to
52 any law of the United States.

53
54 (c) Every cigar retailer shall be liable for the collection of the excise on all cigars or
55 smoking tobacco in his possession at any time, upon which the excise has not been paid
56 by a cigar distributor, and the failure of any cigar retailer to produce or exhibit to the
57 commissioner or his authorized representative, upon demand, an invoice by a cigar
58 distributor for any cigars or smoking tobacco in his possession, shall be presumptive
59 evidence that the excise thereon has not been paid and that such cigar retailer is liable for
60 the collection of the excise thereon.

61
62 (d) The amount of the excise advanced and paid by a cigar distributor or cigar
63 retailer, as provided in this section, shall be added to and collected as part of, the sales
64 price of the cigars or smoking tobacco.

65
66 (e)(1) A cigar distributor shall be liable for the payment of the excise on cigars and
67 smoking tobacco that he imports or causes to be imported in the commonwealth or that
68 he manufactures in the commonwealth, and every cigar distributor authorized by the
69 commissioner to make returns and pay the excise on cigars or smoking tobacco sold,
70 shipped or delivered by him to any person in the commonwealth shall be liable for the
71 collection and payment of the excise on all cigars and smoking tobacco sold, shipped or
72 delivered.

73
74 (2) Every person who does not acquire untaxed cigars or smoking tobacco, but
75 acquires taxed cigars and smoking tobacco for sale at retail, shall not be licensed as a
76 cigar distributor under this section, but shall be required, during the period that such
77 person is a retailer of taxed cigars or smoking tobacco, to be licensed as a cigar retailer.

78
79 (f) A person outside the commonwealth who ships or transports cigars or smoking
80 tobacco to cigar retailers in the commonwealth, to be sold by those cigar retailers, may
81 apply for a license as a nonresident cigar distributor, and, if the commissioner issues such
82 a license to him, shall thereafter be subject to all the provisions of this section and be
83 entitled to act as a cigar distributor, provided he files proof with his application that he
84 has appointed the secretary of state as his agent for service of process relating to any
85 matter or issue arising under this section. Such a nonresident person shall also agree to
86 submit his books, accounts and records for examination in the commonwealth during
87 reasonable business hours by the commissioner or his authorized representative.

88
89 (g) Every resident of the commonwealth shall be liable for the collection of the
90 excise on all cigars or smoking tobacco in his possession at any time, upon which the
91 excise has not been paid by a cigar distributor or cigar retailer, and the failure of any such
92 consumer to produce or exhibit to the commissioner or his authorized representative,
93 upon demand, an invoice or sales receipt by a cigar distributor or cigar retailer for any
94 cigars or smoking tobacco in his possession, shall be presumptive evidence that the
95 excise thereon has not been paid and that such consumer is liable for the collection of the
96 excise thereon.

97
98 (h) No person shall act as a cigar distributor or cigar retailer in the commonwealth
99 unless licensed to do so in accordance with section 67 of chapter 62C. If a cigar
100 distributor or cigar retailer acts in more than one of said capacities at any one place of
101 business, he shall procure a license for every capacity in which he acts, unless, upon
102 application to the commissioner, the commissioner determines otherwise. Each license so
103 issued or a duplicate copy thereof shall be prominently displayed on the premises covered
104 by the license.

105
106 (i) Except as this section expressly provides to the contrary, the provisions of this
107 chapter and of chapter 62C relative to the assessment, collection, payment, abatement,
108 verification and administration of taxes, including penalties, shall so far as pertinent,
109 apply to the excise tax imposed by this section.

110
111 (j) For the purposes of section 5, cigars and smoking tobacco shall be tobacco
112 products, cigar distributors shall be wholesalers and cigar retailers shall be retailers.

113
114 (k) For the purposes of section 8, untaxed cigars and smoking tobacco found in the
115 commonwealth shall be cigarettes, which have not been returned and are not returnable
116 under section 16 of chapter 62C, cigarettes, which have not been returned and are not
117 returnable under section 6 and cigarettes, as the context requires.

118
119 (l)(1) Any person who sells, offers for sale or possesses with intent to sell any
120 cigars or smoking tobacco or otherwise acts as a cigar distributor or cigar retailer without
121 being licensed so to do, shall, in addition to any other penalty provided by this chapter or
122 chapter 62C, be subject to a civil penalty of not more than \$5,000 for the first offense and
123 not more than \$25,000 for each subsequent offense. Any person who knowingly
124 purchases or possesses any cigars or smoking tobacco not manufactured, purchased or
125 imported by a licensed cigar distributor or licensed cigar retailer shall, in addition to any
126 other penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not
127 more than \$5,000 for the first offense and not more than \$25,000 for each subsequent
128 offense.

129
130 No person, either as principal or agent, shall sell or solicit orders for cigars or
131 smoking tobacco to be shipped, mailed or otherwise sent or brought into the
132 commonwealth to any person not a licensed cigar distributor or licensed cigar retailer,
133 unless the same is to be sold to or through a licensed cigar distributor or licensed cigar
134 retailer. Any person who knowingly violates this provision shall, in addition to any other
135 penalty provided by this chapter or chapter 62C, be subject to a civil penalty of not more
136 than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

137
138 It shall be presumed that the cigars and smoking tobacco are subject to the excise
139 until the contrary is established and the burden of proof that they are not shall be upon the
140 person on whose premises the cigars or smoking tobacco were found.

141
142 (2) Any person who knowingly has in his possession a shipping case or other

143 container of cigars or smoking tobacco not bearing the name and address of the person
144 receiving the cigars or smoking tobacco from a manufacturer or such other markings as
145 the commissioner may prescribe and any person knowingly in possession of such a
146 shipping case or other container of cigars or smoking tobacco from which this name and
147 address has been erased or defaced, shall, in addition to any other penalty provided by
148 this chapter or chapter 62C, be subject to a civil penalty of not more than \$5,000 for the
149 first offense or not more than \$25,000 for each subsequent offense.

150
151 (3) Any person who files any false return, affidavit, or statement, or who violates
152 any provision of this section for which no other penalty has been provided, shall, in
153 addition to any other penalty provided by this chapter or chapter 62C, be subject to a civil
154 penalty of not more than \$5,000 for the first offense and not more than \$25,000 for each
155 subsequent offense.

156
157 (4) Whenever the commissioner or a police officer discovers, in the possession of
158 any person not being a licensed cigar distributor or one authorized by the commissioner,
159 any untaxed cigars or smoking tobacco, he may seize and take possession of those cigars
160 and smoking tobacco, together with any vending machine or other receptacle, which shall
161 include, without limitation, a motor vehicle, boat or airplane, in which they are contained
162 or in which they are transported. Such cigars, smoking tobacco, vending machine or other
163 receptacle seized by a police officer shall be turned over to the commissioner and shall be
164 forfeited to the commonwealth. The commissioner shall destroy such cigars or smoking
165 tobacco and shall destroy or otherwise dispose of such vending machine or other
166 receptacle. The commissioner may, within a reasonable time after the seizure, by a public
167 notice at least 5 days before the day of sale, sell the vending machine or other receptacle
168 at public sale and deposit the proceeds in the General Fund.

169
170 (5) The state police and all local police authorities may, and at the request of the
171 commissioner or his duly authorized agent shall, enforce this section. Each violation of
172 this section shall be a separate offense.

1 **SECTION 32.** Said chapter 64C of the General Laws, as so appearing, is hereby further
2 amended by striking out section 38A and inserting in place thereof the following section:-
3

4 Section 38A. Whenever the commissioner or a police officer discovers, in the
5 possession of any person not being a stamper, licensed transportation company or one
6 authorized by the commissioner, any cigarettes subject to tax under this chapter that do
7 not have affixed to them the required Massachusetts stamps showing the payment of
8 excise, or any smokeless tobacco on which tax has not been paid, he may seize and take
9 possession of those cigarettes or smokeless tobacco, together with any vending machine
10 or other receptacle, which shall include, without limitation, a motor vehicle, boat or
11 airplane, in which the cigarettes or smokeless tobacco are contained or in which they are
12 transported. The cigarettes, smokeless tobacco, vending machine or other receptacle
13 seized by a police officer shall be turned over to the commissioner and shall be forfeited
14 to the commonwealth. The commissioner shall destroy such cigarettes and smokeless
15 tobacco and shall destroy or otherwise dispose of such vending machine or other

receptacle. The commissioner may, within a reasonable time after the seizure, by a public notice at least 5 days before the day of sale, sell the vending machine or other receptacle at public sale and deposit the proceeds in the General Fund.

SECTION 33. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the word “state.”, in line 254, the following words:- A transfer of an interest in an aircraft may be considered a transfer of tangible personal property under rules determined by the commissioner.

SECTION 34. Said chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after section 3 the following section:-

Section 3A. (a) Every manufacturer, wholesaler, unclassified acquirer, as defined in chapter 64C, doing business in the commonwealth, or any other person doing business in the commonwealth, selling tobacco products, including cigarettes, cigars, smokeless tobacco and smoking tobacco, to others for resale in the commonwealth, shall pay, as a prepayment for the tax imposed by this chapter, a tax on tobacco products that will be held for retail sale in the commonwealth. The tax shall be computed on each sale of tobacco products by multiplying the tax rate set by this chapter by the wholesale sales price at which such manufacturer, wholesaler, unclassified acquirer or other person sells the tobacco products. The tax imposed by this section shall be paid at the same time and in the same manner as the tax imposed by section 2. Any manufacturer, wholesaler, unclassified acquirer or other person prepaying the tax shall, with respect to such prepayment, be a vendor for purposes of section 1 of this chapter and section 16 of chapter 62C, shall file returns and pay over tax accordingly, and shall separately state on each customer invoice or other written record, as prescribed by the commissioner, the amount of prepaid sales tax charged.

(b) Every person selling tobacco products at retail in the commonwealth who is required to pay the tax imposed by this chapter shall be allowed a credit in the amount of the prepayment against the total amount of tax it is required to pay over to the commissioner under this chapter. Every such person must maintain invoices and other records substantiating the amount of tax prepaid.

(c) Chapter 64I shall apply to the extent that the tax under this section is not paid over to the commissioner by any of the persons mentioned in the first or second paragraph of this section. All taxes imposed by this section are conclusively presumed to be a direct tax on the retail consumer, pre-collected for the purpose of convenience and facility only.

(d) The commissioner may adopt regulations to implement this section, which regulations shall include a provision to prevent the payment of tax by more than one taxpayer.

1 **SECTION 35.** Subsection (p) of section 6 of said chapter 64H of the General Laws, as so
2 appearing, is hereby amended by striking out clause (3) and inserting in place thereof the
3 following clause:-

4
5 (3) sales of fertilizer, including ground limestone, hydrated lime, seed inoculants and
6 plant hormones, as well as other substances commonly regarded in the same category and
7 for the same use, but not including any sales of pesticides, including insecticides,
8 herbicides, fungicides, miticides and all materials registered with the Environmental
9 Protection Agency as pesticides under Federal Insecticide, Fungicide and Rodenticide
10 Act as well as other pesticides commonly regarded in the same category and for the same
11 purpose except when purchased by a person licensed under chapter 132B or otherwise
12 exempt under paragraph (r);

1 **SECTION 36.** Said section 6 of said chapter 64H of the General Laws, as so appearing,
2 is hereby amended by striking out paragraphs (uu) and (vv), inclusive.

1 **SECTION 37.** Section 33 of said chapter 64H of the General Laws, as so appearing, is
2 hereby amended by adding at the end thereof the following sentence:- For purposes of
3 this section, a vendor shall include any person who has made a prepayment of tax under
4 section 3A.

1 **SECTION 38.** Section 7 of chapter 64I of the General Laws, as so appearing, is hereby
2 amended by striking out paragraphs (d) and (e), inclusive.

1 **SECTION 39.** Section 34 of said chapter 64I of the General Laws, as so appearing, is
2 hereby amended by adding at the end thereof the following sentence:- For purposes of
3 this section, a vendor shall include any person who has made a prepayment of tax under
4 section 3A of chapter 64H.

1 **SECTION 40.** Chapter 175 of the General Laws, as so appearing, is hereby amended by
2 striking out section 195 and inserting in place thereof the following section:-

3
4 Section 195. Sums for the estimated expenses for the purposes specified in subsection (b)
5 shall be paid to the commonwealth by insurance companies writing fire, homeowners
6 multiple peril or commercial multiple peril policies on property situated in the
7 commonwealth within 30 days after notice from the commissioner of such estimated
8 expenses. The commissioner shall apportion such estimated charges among all such
9 companies and shall assess them for the same on a fair and reasonable basis. The
10 commissioner shall subsequently apportion actual costs among all such companies and
11 shall make assessment adjustments for the same for any variation between estimated and
12 actual costs on a fair and reasonable basis. Such estimated and actual costs shall include
13 an amount equal to the cost of fringe benefits as established by the secretary of
14 administration and finance under section 5D of chapter 29.

15
16 (b) The costs to be paid under subsection (a) shall be for the following purposes: (1) the
17 operation of state fire training facilities and curriculum for fire fighting personnel; (2) the

18 implementation and administration of 26G½ and 34A to 34D, inclusive, of chapter 148,
19 and chapter 304 of the acts of 2004; (3) the firefighting equipment grant program within
20 the executive office of public safety; (4) student awareness of fire education programs
21 within the executive office of public safety; and (5) capital improvements to state fire
22 training facilities, including reimbursing the General Fund for debt service on bonds
23 issued to pay for such capital improvements.

1 **SECTION 41.** Section 6 of chapter 211A of the General Laws, as so appearing, is hereby
2 amended by striking out, in line 4, the word “three” and inserting in place thereof the
3 following number:- 4

1 **SECTION 42.** Section 2 of chapter 211B of the General Laws, as so appearing, is hereby
2 amended by striking out, in line 2, the number “7” and inserting in place thereof the
3 following number:- 8

1 **SECTION 43.** Section 11 of chapter 211D of the General Laws, as so appearing, is
2 hereby amended by striking out, in line 18, the word “is” and inserting in place thereof
3 the following words:- , except any counsel appointed or assigned to represent indigents
4 within the private counsel division in a homicide case, shall be

1 **SECTION 44.** Section 37 of chapter 221 of the General Laws, as so appearing, is hereby
2 amended by striking out, in lines 23 to 26, inclusive, the words “A member of the bar of
3 any other state who applies to be admitted without examination shall pay to the clerk of
4 the court in which his petition is filed a fee of \$700.”

1 **SECTION 45.** Section 94 of said chapter 221 of the General Laws, as so appearing, is
2 hereby amended by striking out, in line 16, the figure “78.27” and inserting in place
3 thereof the following figure:- 82.50

1 **SECTION 46.** Section 25 of chapter 45 of the acts of 2005 is hereby amended by
2 striking out, in subsection (b), the word “all” and inserting in place thereof the following
3 words:- Notwithstanding any general or special law to the contrary, all

1 **SECTION 47.** Said section 25 of said chapter 45 of the acts of 2005 is hereby amended
2 by striking out, in subsection (c), the word “all” and inserting in place thereof the
3 following words:- Notwithstanding any general or special law to the contrary, all

1 **SECTION 48.** Said section 25 of said chapter 45 of the acts of 2005 is hereby amended
2 by striking out, in subsection (d), the word “all” and inserting in place thereof the
3 following words:- Notwithstanding any general or special law to the contrary, all

1 **SECTION 49.** Chapter 58 of the acts of 2006 is hereby amended by striking out section
2 128, as amended by section 40 of chapter 61 of the acts of 2007, and inserting in place
3 thereof the following section:-
4

5 Section 128. Notwithstanding any general or special law to the contrary and in
6 accordance with section 13B of chapter 118E of the General Laws, in fiscal year 2007,
7 \$90,000,000 shall be made available from the Commonwealth Care Trust Fund,
8 established pursuant to section 2000 of chapter 29 of the General Laws, to pay for an
9 increase in the Medicaid rates paid to acute hospitals and physicians; but not less than 15
10 per cent of the increase shall be allocated to rate increases for physicians. For fiscal year
11 2008, an additional \$90,000,000, for a total of \$180,000,000, shall be made available
12 from said Commonwealth Care Trust Fund in accordance with this section, to pay for an
13 increase in the Medicaid rates paid to acute hospitals and physicians; but not less than 15
14 per cent of the increase shall be allocated to rate increases for physicians. In fiscal year
15 2009, an additional \$90,000,000, for a total of \$270,000,000, shall be made available
16 from said Commonwealth Care Trust Fund to pay for an increase in the Medicaid rates
17 paid to acute hospitals, as defined in section 1 of chapter 118G of the General Laws, and
18 physicians; but not less than 15 per cent of the increase shall be allocated to rate increases
19 for physicians. In fiscal year 2008, not more than \$20,000,000 of the amounts to be made
20 available to acute hospitals under this section shall be contingent on hospital adherence to
21 quality standards and achievement of performance benchmarks, including the reduction
22 of racial and ethnic disparities in the provision of health care, in accordance with said
23 section 13B of said chapter 118E, and may be paid in fiscal year 2009. In fiscal year
24 2009, not more than \$58,000,000 of the amounts to be made available to acute hospitals
25 under this section shall be contingent on hospital adherence to quality standards and
26 achievement of performance benchmarks, including the reduction of racial and ethnic
27 disparities in the provision of health care, in accordance with said section 13B of said
28 chapter 118E, and may be paid in fiscal year 2010. For fiscal years 2008 and 2009, any
29 such performance benchmarks shall be determined by the secretary of health and human
30 services without any limitation, but in consultation with hospitals, the MassHealth
31 payment policy advisory board and the health care quality and cost council, and may
32 include measures to be reported by hospitals to the federal Centers for Medicare and
33 Medicaid Services for Reporting Hospital Quality Data for Annual Payment Update, to
34 the Joint Commission on Accreditation of Healthcare Organizations for core measures, or
35 to the MassHealth Program pursuant to Appendix G of the contract between MassHealth
36 and acute hospitals for Rate Year 2007 or other nationally-recognized measures that are
37 drawn on those approved by the National Quality Forum and adopted by the Hospitals
38 Quality Alliance Performance benchmarks and quality measures related to racial and
39 ethnic disparities in the provision of health care. The secretary of health and human
40 services shall, after consultation required by said section 13B of said chapter 118E, issue
41 final quality standards and performance benchmarks for use in the hospital fiscal year
42 beginning October 1, 2008. For purposes of payments to hospitals pursuant to this
43 section, fiscal year shall mean the hospitals' fiscal year and, for purposes of any
44 payments to physicians pursuant to this section, fiscal year shall mean the state fiscal
45 year.

1 **SECTION 50.** Notwithstanding any general or special law to the contrary, section 35J of
2 chapter 10 of the General Laws shall not apply in fiscal year 2009.

1 **SECTION 51.** Notwithstanding any general or special law to the contrary, not less than
2 10 days after the effective date of this act, the comptroller shall transfer \$4,000,000 from
3 the General Fund to the Dr. Craig C. Mello Small Business Equity Investment Fund,
4 established pursuant to section 7 of chapter 23I of the General Laws.

1 **SECTION 52.** Notwithstanding any general or special law to the contrary, not less than
2 10 days after the effective date of this act, the comptroller shall transfer \$3,000,000 from
3 the General Fund to the Dr. Judah Folkman Higher Education Grant Fund, established
4 pursuant to section 8 of chapter 23I of the General Laws.

1 **SECTION 53.** Notwithstanding any general or special law to the contrary, not less than
2 10 days after the effective date of this act, the comptroller shall transfer \$2,100,000 from
3 the General Fund to the Regional Technology and Innovations Centers Capital Fund,
4 established pursuant to section 11 of chapter 23I of the General Laws.

1 **SECTION 54.** Notwithstanding any general or special law to the contrary, the
2 comptroller shall, no later than June 30, 2009, transfer \$229,000,000 from the
3 Commonwealth Stabilization Fund, established pursuant to section 2H of chapter 29 of
4 the General Laws, to the General Fund.

1 **SECTION 55.** Notwithstanding any general or special law to the contrary, during fiscal
2 year 2009 the comptroller shall not transfer 0.5 per cent of the total revenue from taxes in
3 the preceding fiscal year to the Commonwealth Stabilization Fund, established pursuant
4 to section 2H of chapter 29 of the General Laws, as otherwise required pursuant to clause
5 (a) of section 5C of chapter 29 of the General Laws.

1 **SECTION 56.** Notwithstanding any general or special law to the contrary, the
2 comptroller shall, no later than June 30, 2009, transfer the interest earned from the
3 Commonwealth Stabilization Fund during fiscal year 2009 to the General Fund.

1 **SECTION 57.** Notwithstanding any general or special law to the contrary, not less than
2 10 days after the effective date of this act, the comptroller shall transfer \$4,000,000 from
3 the General Fund to the Massachusetts Science, Technology, Engineering and
4 Mathematics Grant Fund, established pursuant to section 2MMM of chapter 29 of the
5 General Laws.

1 **SECTION 58.** Notwithstanding any general or special law to the contrary, not less than
2 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from
3 the General Fund to the District Local Technical Assistance Fund, established in section
4 2XXX of chapter 29 of the General Laws.

1 **SECTION 59.** Notwithstanding any general or special law to the contrary, during fiscal
2 year 2009, the comptroller shall transfer from the Health Care Security Trust, established
3 pursuant to section 1 of chapter 29D of the General Laws, to the General Fund an amount
4 equal to 100 per cent of the total of all payments received by the commonwealth in fiscal
5 year 2009 pursuant to the master settlement agreement in the action known as

6 *Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al.*, Middlesex Superior
7 Court, No. 95-7378 and 100 per cent of the earnings generated in fiscal year 2009 from
8 the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of
9 section 3 of chapter 29D of the General Laws for certain health care expenditures
10 appropriated in section 2 of this act.

1 **SECTION 60.** Notwithstanding any general or special law to the contrary, the
2 comptroller shall, according to a schedule developed in consultation with the state
3 treasurer and the secretary of administration and finance, transfer \$378,000,000 from the
4 General Fund to the State Retiree Benefits Trust Fund established pursuant to section 24
5 of chapter 32A of the General Laws.

1 **SECTION 61.** (a) Notwithstanding any general or special law to the contrary, on or
2 before October 1, 2008 and without further appropriation, the comptroller shall transfer
3 from the General Fund to the Health Safety Net Trust Fund, established pursuant to
4 section 36 of chapter 118G of the General Laws and in this subsection referred to as the
5 fund, the greater of \$45,000,000 or one-twelfth of the total expenditures to hospitals and
6 community health centers required pursuant to subsection (b), for the purpose of making
7 initial gross payments to qualifying acute care hospitals for the hospital fiscal year
8 beginning October 1, 2008. These payments shall be made to hospitals before, and in
9 anticipation of, the payment by hospitals of their gross liability to the fund. The
10 comptroller shall transfer from the fund to the General Fund not later than June 30, 2009,
11 the amount of the transfer authorized by this subsection and any allocation thereof as
12 certified by the director of the health safety net office.

13
14 (b) Notwithstanding any general or special law to the contrary, the comptroller
15 shall, in consultation with the state treasurer, the secretary of administration and finance
16 and the secretary of health and human services, develop a schedule for transferring funds
17 among the General Fund, the Commonwealth Care Trust Fund established pursuant to
18 section 2000 of chapter 29 of the General Laws, and the Health Safety Net Trust Fund
19 established pursuant to section 36 of chapter 118G of the General Laws. Not less than
20 \$1,117,561,456 shall be transferred from the General Fund to the Commonwealth Care
21 Trust Fund and not less than \$62,996,382 shall be transferred from the Commonwealth
22 Care Trust Fund to the Health Safety Net Trust Fund. The hospital fiscal year 2009
23 payment amount to each hospital shall be funded by the Health Safety Net Trust Fund.
24 Payments may be made either as safety net care payments under the Commonwealth's
25 1115 waiver, or as an adjustment to Title XIX service rate payments, or a combination
26 thereof. The executive office of health and human services and the health safety net
27 office may use other federally permissible funding mechanisms available for public
28 service hospitals, as defined in 114.1 CMR 36.02, to reimburse up to \$70,000,000 of
29 uncompensated care at the hospitals using sources distinct from the funding made
30 available to the Health Safety Net Trust Fund. The executive office of health and human
31 services shall make expenditures required for fiscal year 2008 under section 122 of
32 chapter 58 of the acts of 2006. The schedule shall provide for transfers in increments
33 considered appropriate to meet the cash flow needs of these funds. The transfers shall not
34 begin before July 1, 2008 and shall be completed on or before June 30, 2009. The

35 secretary of administration and finance, in consultation with the secretary of health and
36 human services and the executive director of the commonwealth health insurance
37 connector, shall on a quarterly basis evaluate the revenue needs of the health safety net
38 program funded by the Health Safety Net Trust Fund and the Commonwealth Care
39 subsidized health insurance program funded from the Commonwealth Care Trust Fund,
40 and if necessary, transfer monies between these funds for the purpose of ensuring that
41 sufficient revenues are available to support projected program expenditures. The
42 secretary of health and human services in consultation with the secretary of
43 administration and finance and the executive director of the commonwealth health
44 insurance connector shall submit a quarterly report to the house and senate committees on
45 ways and means and joint committee on healthcare financing which shall include, but not
46 be limited to, the projected and actual expenditures and revenues for the Commonwealth
47 Care Trust Fund and any transfers made between the Health Safety Net Trust Fund and
48 the Commonwealth Care Trust Fund.

49
50 (c) Notwithstanding any general or special law to the contrary, the comptroller
51 shall, in consultation with the office of the state treasurer, the executive office of
52 administration and finance and the executive office of health and human services,
53 develop a schedule and make a series of transfers not to exceed \$251,000,000 from the
54 General Fund to the MassHealth provider payment account in the Medical Assistance
55 Trust Fund, established pursuant to section 2QQQ of chapter 29 of the General Laws, if
56 the comptroller has determined that General Fund revenues are sufficient to
57 accommodate the schedule of transfers. These funds may be expended only for services
58 provided during state or federal fiscal year 2009, and no amounts previously or
59 subsequently transferred into the Medical Assistance Trust Fund may be expended on
60 payments described in the 1115 demonstration waiver for services provided during state
61 fiscal year 2009 or payments described in the state plan for services provided during
62 federal fiscal year 2009. All payments from the Medical Assistance Trust Fund shall be
63 subject to the availability of federal financial participation, shall be made only in
64 accordance with federally-approved payment methods, shall be consistent with federal
65 funding requirements and all federal payment limits as determined by the secretary of
66 health and human services, and shall be subject to the terms and conditions of an
67 agreement with the executive office of health and human services. The secretary of the
68 executive office of health and human services shall make a payment of up to
69 \$148,000,000 from the Medical Assistance Trust Fund to the Cambridge public health
70 commission's hospital network for dates of service in state and federal fiscal year 2009
71 only after the Cambridge public health commission transfers up to \$74,000,000 of its
72 funds to the Medical Assistance Trust Fund, using a federally permissible source of funds
73 which shall fully satisfy the non-federal share of such payment.

74
75 (d) Notwithstanding any general or special law to the contrary, the comptroller, in
76 consultation with the secretary of health and human services, shall develop a schedule for
77 transferring not less than \$28,000,000 from the General Fund to the Essential Community
78 Provider Trust Fund, established pursuant to section 2PPP of chapter 29 of the General
79 Laws for the purpose of making payments to hospitals and community health centers in
80 fiscal year 2009. The secretary shall authorize expenditures from the fund without further

81 appropriation for the purpose of a grant program to improve and enhance the ability of
82 hospitals and community health centers to serve populations in need, more efficiently and
83 effectively, including, but not limited to, the ability to provide community-based care,
84 clinical support, care coordination services, disease management services, primary care
85 services and pharmacy management services through a grant program. The office shall
86 consider applications from acute hospitals, non-acute hospitals, and community health
87 centers in awarding the grants; provided, however, that the office shall publicize the
88 existence of the grant program to eligible providers and shall award grants on or before
89 September 1, 2008. The criteria for selection shall include, but not be limited to, the
90 following: (i) financial performance measures including negative operating margins,
91 insufficient cash flow, technical bond default and the uncertain ability to cover long-term
92 obligations, as well as potential for loss of critical community services; (ii) the percentage
93 of patients with mental or substance abuse disorders served by a provider; (iii) the
94 numbers of patients served by a provider who are chronically ill, elderly, or disabled,
95 provided that in the case of a community health center, that preference be given to the
96 provision of a program of all-inclusive care for the elderly; (iv) the payer mix of the
97 provider, with preference given to acute hospitals where a minimum of 63 per cent of the
98 acute hospital's gross patient service revenue is attributable to Title XVIII and Title XIX
99 of the federal Social Security Act or other governmental payors, including
100 reimbursements from the Health Safety Net Trust Fund; (v) the percentage of total annual
101 operating revenue that received funding in fiscal years 2005 and 2006 from the
102 Distressed Provider Expendable Trust Fund comprised for the provider; (vi) the
103 percentage of total annual operating revenue that received funding in fiscal year 2008
104 from the Essential Community Provider Trust Fund, established in section 2PPP of
105 chapter 29 of the General Laws; (vii) the cultural and linguistic challenges presented by
106 the populations served by the provider; (viii) a documented critical need for investment in
107 information technology such as computerized physician order entry systems but without
108 access to capital to finance such investments; and (ix) the provision by a community
109 health center of 24 hour emergency services. The secretary may further authorize
110 distributions on an emergency basis to acute hospitals, non-acute hospitals and
111 community health centers facing extreme financial distress or closure upon petition from
112 the provider. The emergency funds shall be distributed by the secretary within 14 days of
113 petition by a provider that is determined to be facing extreme financial distress or closure
114 at an amount determined by the secretary.

1 **SECTION 62.** Notwithstanding any general or special law to the contrary, not less than
2 10 days after the effective date of this act, the comptroller shall transfer \$124,153,283
3 from the General Fund to the Fiscal Year 2009 General Fund Supplement to Hold
4 Harmless Lottery Aid Fund established pursuant to section 67.

1 **SECTION 63.** Notwithstanding any general or special law to the contrary, in hospital
2 fiscal year 2009, the office of the inspector general may continue to expend funds
3 appropriated pursuant to section 1 of chapter 240 of the acts of 2004 from the
4 Uncompensated Care Trust Fund, or any successor fund, for the costs associated with
5 maintaining a pool audit unit within said office. The unit shall continue to oversee and
6 examine the practices in all Massachusetts' hospitals including, but not limited to, the

7 care of the uninsured and the resulting free care charges. The inspector general shall
8 submit a report to the house and senate committees on ways and means on the results of
9 the audits and any other completed analyses not later than March 1, 2009. For the
10 purposes of said audits, allowable free care services shall be defined pursuant to chapter
11 118G of the General Laws and any regulations promulgated pursuant thereto.

1 **SECTION 64.** Notwithstanding any general or special law to the contrary, the amounts
2 transferred pursuant to paragraph (1) of section 22C of chapter 32 of the General Laws
3 shall be made available for the commonwealth's Pension Liability Fund established
4 pursuant to section 22 of said chapter 32. The amounts transferred pursuant to said
5 paragraph (1) of said section 22C of said chapter 32 shall meet the commonwealth's
6 obligations pursuant to said section 22C of said chapter 32, including retirement benefits
7 payable by the state employees' and the state teachers' retirement systems, for the costs
8 associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said
9 chapter 32, the reimbursement of local retirement systems for previously authorized cost-
10 of-living adjustments pursuant to said section 102 of said chapter 32, and for the costs of
11 increased survivor benefits pursuant to chapter 389 of the acts of 1984. The state board of
12 retirement and each city, town, county and district shall verify these costs, subject to the
13 rules adopted by the treasurer. The treasurer may make payments upon a transfer of funds
14 to reimburse certain cities and towns for pensions to retired teachers, including any other
15 obligations which the commonwealth has assumed on behalf of any retirement system
16 other than the state employees' or state teachers' retirement systems and also including the
17 commonwealth's share of the amounts to be transferred pursuant to section 22B of said
18 chapter 32 and the amounts to be transferred pursuant to clause (a) of the last paragraph
19 of section 21 of chapter 138 of the General Laws. All payments for the purposes
20 described in this section shall be made only pursuant to distribution of monies from the
21 fund, and any distribution and the payments for which distributions are required shall be
22 detailed in a written report filed quarterly by the commissioner of administration with the
23 house and senate committees on ways and means and the joint committee on public
24 service in advance of this distribution. Distributions shall not be made in advance of the
25 date on which a payment is actually to be made. The state board of retirement may
26 expend an amount for the purposes of the board of higher education's optional retirement
27 program pursuant to section 40 of chapter 15A of the General Laws. To the extent that
28 the amount transferred pursuant to paragraph (1) of section 22C of said chapter 32
29 exceeds the amount necessary to adequately fund the annual pension obligations, the
30 excess amount shall be credited to the Pension Reserves Investment Trust Fund of the
31 commonwealth for the purpose of reducing the unfunded pension liability of the
32 commonwealth.

1 **SECTION 65.** (a) Notwithstanding any general or special law to the contrary, upon the
2 request of the board of selectmen in a town, the city council in a plan E city, or the mayor
3 in any other city, the department of revenue may recalculate the minimum required local
4 contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year
5 ending June 30, 2009. Based on the criteria established in this section, the department

6 shall recalculate the minimum required local contribution for a municipality's local and
7 regional schools and shall certify the amounts calculated to the department of education.

8 (b) A city or town that used qualifying revenue amounts in a fiscal year which
9 will not be available for use in the next fiscal year, or that will be required to use
10 revenues for extraordinary non school-related expenses for which it did not have to use
11 revenues in the preceding fiscal year, or that has an excessive certified municipal revenue
12 growth factor which is also greater than or equal to 1.5 times the state average municipal
13 revenue growth factor, may appeal to the department of revenue on or before October 1,
14 2008 for an adjustment of its minimum required local contribution and net school
15 spending.

16 (c) If a claim is determined to be valid, the department of revenue may reduce
17 proportionately the minimum required local contribution amount based on the amount of
18 shortfall in revenue or based on the amount of increase in extraordinary expenditures in
19 the current fiscal year, but no adjustment to the minimum required local contribution on
20 account of an extraordinary expense in the budget for the fiscal year ending on June 30,
21 2009 shall affect the calculation of the minimum required local contribution in
22 subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to,
23 extraordinary amounts of free cash, overlay surplus and other available funds.

24 (d) If, upon submission of adequate documentation, the department of revenue
25 determines that the municipality's claim regarding an excessive municipal revenue
26 growth factor is valid, the department shall recalculate the municipal revenue growth
27 factor and the department of education shall use the revised growth factor to calculate the
28 preliminary local contribution, the minimum required local contribution and any other
29 factor that directly or indirectly uses the municipal revenue growth factor. Any relief
30 granted as a result of an excessive municipal revenue growth factor shall be a permanent
31 reduction in the minimum required local contribution.

32 (e) The board of selectmen in a town, the city council in a plan E city, the mayor
33 in any other city, or a majority of the member municipalities of a regional school district,
34 which used qualifying revenue amounts in a fiscal year that will not be available for use
35 in the next fiscal year, may appeal to the department of revenue not later than October 1,
36 2008 for an adjustment to its net school spending requirement. If the claim is determined
37 to be valid, the department of revenue shall reduce the net school spending requirement
38 based on the amount of the shortfall in revenue and reduce the minimum required local
39 contribution of member municipalities accordingly. Qualifying revenue amounts shall
40 include, but not be limited to, extraordinary amounts of excess and deficiency, surplus
41 and uncommitted reserves.

42 (f) If the regional school budget has already been adopted by two-thirds of the member
43 municipalities then, upon a majority vote of the member municipalities, the regional
44 school committee shall adjust the assessments of the member municipalities in
45 accordance with the reduction in minimum required local contributions approved by the
46 department of revenue or the department of education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined pursuant to this section shall be the minimum required local contribution described in chapter 70 of the General Laws. The department of revenue and the department of education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized pursuant to this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2009 pursuant to chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of the minimum required local contribution pursuant to this section.

(j) The department of revenue and the department of education shall issue guidelines for their respective duties pursuant to this section.

SECTION 66. Notwithstanding any general or special law to the contrary, the executive office of health and human services may, pursuant to section 16 of chapter 6A of the General Laws, acting in its capacity as the single state agency pursuant to Title XIX of the Social Security Act and as the principal agency for all of the agencies within the executive office and other federally assisted programs administered by the executive office, enter into interdepartmental services agreements with the University of Massachusetts Medical School to perform activities that the secretary, in consultation with the comptroller, determines are appropriate and within the scope of the proper administration of Title XIX and other federal funding provisions to support the programs and activities of the executive office. These activities shall include: (1) providing administrative services, including, but not limited to, activities such as providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities and similar initiatives; (2) providing consulting services related to quality assurance, program evaluation and development, integrity and soundness, and project management; and (3) providing activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third party liability and recouping payments to third parties. Federal reimbursement for any expenditures made by the University of Massachusetts Medical School relative to federally reimbursable services the university provides under these interdepartmental service agreements or other contracts with the executive office of health and human services shall be distributed to the university, and recorded distinctly in the state accounting system. The executive office of health and human services may negotiate contingency fees for activities and services related to the purpose of pursuing

24 federal reimbursement or avoiding costs, and the comptroller shall certify these fees and
25 pay them upon the receipt of this revenue, reimbursement or demonstration of costs
26 avoided. Contracts for contingency fees shall not extend longer than 3 years, and shall not
27 be renewed without prior review and approval from the executive office of administration
28 and finance. The executive office of health and human services shall not pay contingency
29 fees in excess of \$40,000,000 for state fiscal year 2009. The secretary of the executive
30 office of health and human services shall submit to the secretary of administration and
31 finance and the senate and house committees on ways and means a quarterly report
32 detailing the amounts of the agreements, the ongoing and new projects undertaken by the
33 university, the amounts spent on personnel, and the amount of federal reimbursement and
34 recoupment payments that the university collected.

1 **SECTION 67.** Notwithstanding any general or special law to the contrary, there shall be
2 established and set up on the books of the commonwealth a separate fund to be known as
3 the General Fund Supplement to Hold Harmless Lottery Aid Fund which shall be
4 administered by the state treasurer. The fund shall be credited any appropriations or other
5 monies authorized by the general court and specifically designated to be credited thereto.

6 In order to supplement local aid payments from the State Lottery Fund established
7 pursuant to section 35 of chapter 10 of the General Laws and to provide local property
8 tax relief and continue services at the local level, revenue from the fund shall be
9 distributed in 4 equal payments as follows: on or before September 30th, 2008, on or
10 before December 31, 2008, on or before March 31, 2009 and on or before June 30 2009;
11 and provided, further, that said distributions shall be made simultaneous with the
12 distributions from the Local Aid Fund established pursuant to section 18C of chapter 58
13 of the General Laws.

1 **SECTION 68.** Notwithstanding any general or special law to the contrary and in order to
2 maintain the fiscal viability of the subsidized catastrophic prescription drug insurance
3 program, hereinafter referred to as the "prescription advantage program", authorized by
4 section 39 of chapter 19A of the General Laws, cost-sharing required of enrollees in the
5 form of co-payments, premiums and deductibles, or any combination thereof, may be
6 adjusted by the department of elder affairs to reflect price trends for outpatient
7 prescription drugs, as determined by the secretary of elder affairs. In addition to the
8 eligibility requirements set forth in said section 39 of said chapter 19A, to be considered
9 eligible for the prescription advantage program, individuals who receive Medicare and
10 are applying for, or are then enrolled in, the prescription advantage program shall also be
11 enrolled in a Medicare prescription drug plan, a Medicare Advantage prescription drug
12 plan or in a plan which provides creditable prescription drug coverage as defined in
13 section 104 of the Medicare Prescription Drug, Improvement and Modernization Act of
14 2003, hereinafter referred to as "MMA," and which provides coverage of the cost of
15 prescription drugs actuarially equal to or better than that provided by Medicare Part D,
16 hereinafter referred to as a "creditable coverage" plan. In addition to the eligibility
17 requirements set forth in said section 39 of said chapter 19A, to be considered eligible for
18 the prescription advantage program, individuals who receive Medicare and are applying

19 for, or are then enrolled in, the prescription advantage program, who may qualify for the
20 low-income subsidy, provided under the MMA Subpart P - Premiums and cost-sharing
21 subsidies for low-income individuals, shall apply for such subsidies. To the extent
22 permitted by MMA and regulations promulgated thereunder and all other applicable
23 federal law, the prescription advantage program may apply on behalf of a member for
24 enrollment into a Medicare prescription drug plan or for the low-income subsidy
25 provided under MMA and may receive information about the member's eligibility and
26 enrollment status necessary for the operation of the prescription advantage program. For
27 enrollees who qualify for enrollment in a Medicare Part D plan, the prescription
28 advantage program will provide a supplemental source of financial assistance for
29 prescription drug costs, hereinafter referred to as "supplemental assistance", in lieu of the
30 catastrophic prescription drug coverage provided pursuant to said section 39 of said
31 chapter 19A. The prescription advantage program will provide supplemental assistance
32 for premiums, deductibles, payments and co-payments required by a Medicare
33 prescription drug plan or Medicare Advantage prescription drug plan and will provide
34 supplemental assistance for deductibles, payments and co-payments required by a
35 creditable coverage plan. The department shall establish the amount of the supplemental
36 assistance it will provide enrollees based on a sliding income scale and the coverage
37 provided by the enrollees' Medicare prescription drug plan, Medicare Advantage
38 prescription drug plan or creditable coverage plan. In addition to the eligibility
39 requirements set forth in said section 39 of said chapter 19A, to be considered eligible for
40 the prescription advantage program, an individual shall have a household income of less
41 than 500 per cent of the poverty guidelines updated periodically in the Federal Register
42 by the United States Department of Health and Human Services pursuant to 42 U.S.C.
43 9902(2). Residents of the commonwealth who are not eligible for Medicare shall
44 continue to be eligible for the prescription advantage program pursuant to said section 39
45 of said chapter 19A.

1 **SECTION 69.** Notwithstanding any general or special law to the contrary, every vending
2 machine operator or retailer, as defined in section 1 of chapter 64C of the General Laws,
3 or any other licensee, as prescribed by the commissioner of revenue, who, at the
4 commencement of business on the effective date of this section, has on hand any cigars or
5 smoking tobacco for sale, shall make and file with the commissioner of revenue within
6 20 days thereafter a return, subscribed under the penalties of perjury, showing a complete
7 inventory of such cigars and smoking tobacco, and shall, at the time he is required to file
8 such return, pay the excise due on any cigars and smoking tobacco on which he has not
9 previously remitted the excise to the commissioner of revenue. All provisions of chapters
10 62C and 64C of the General Laws relative to the assessment, collection, payment,
11 abatement, verification and administration of taxes, including penalties, shall, so far as
12 pertinent, apply to the excise imposed by this section.

1 **SECTION 70.** Sections 12, 19 to 23, inclusive, 30, 31 and 69 of this act shall take effect
2 on October 1, 2008.

1 **SECTION 71.** Sections 34, 37 and 39 of this act shall apply to sales of tobacco products
2 occurring on or after September 1, 2008, by manufacturers, wholesalers, unclassified
3 acquirers and other persons specified in section 34.

1 **SECTION 72.** Section 67 of this act shall expire on June 30, 2009.

1 **SECTION 73.** Except as otherwise specified, this act shall take effect on July 1, 2008.